

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

*In Re:*    A + Enterprises                                 )  
            Personal Property Account No. P-180036 T-A    )   Shelby County  
            Tax years 2003, 2004, 2005                     )

### INITIAL DECISION AND ORDER

### Statement of the Case

These are direct appeals pursuant to Tenn. Code Ann. section 67-1-1005(b) from the following back assessments/reassessments of the subject property:

Tax Year	Original Assessment	Revised Assessment	Back Assessment/ Reassessment
2003	\$ 0	\$4,260	\$4,260
2004	\$300	\$2,310	\$2,010
2005	\$420	\$2,340	\$1,920

The appeals were received by the State Board of Equalization ("State Board") on January 4, 2006.

The undersigned administrative judge conducted a hearing of this matter on October 18, 2006 in Memphis. The appellant, A+ Enterprises, was represented by Mike and Sherrelle Arnold. Director of Finance Gwendolyn Cranshaw, CPA and Audit Manager Eric Beaupre, CPA, appeared on behalf of the Shelby County Assessor of Property. Also in attendance at the hearing was Edna Smith, of the contract auditing firm Mendola & Associates.

### Findings of Fact and Conclusions of Law

Mr. and Ms. Arnold reside at 3694 Battlefield Cove in Memphis. During the year 2003, they started a small, home-based business which involves the rental of sound equipment for birthday parties, church events, and the like. Occasionally, such equipment is transported via a truck that the Arnolds purchased in 2000. This truck has not been licensed as a "commercial" vehicle; and, due to the modest revenue from the business, Mr. and Ms. Arnold have not filed a return under the Business Tax Act.<sup>1</sup> Nor have they claimed any deduction on their federal income tax returns for the expense of owning and/or operating the vehicle. Nevertheless, the Assessor "picked up" the unreported vehicle in an audit of this new personal property account.

At the hearing, the Assessor's representatives conceded that the back assessment/reassessment for tax year 2003 should be canceled because Mr. and Ms. Arnold were not in business on the January 1 assessment date. The only issue in this proceeding is whether their truck was properly assessed in 2004 and 2005 as "commercial and industrial

<sup>1</sup>See Tenn. Code Ann. section 67-4-712(d).



tangible personal property.” As defined in Tenn. Code Ann. section 67-5-501(2) and State Board Rule 0600-5-.01(2), such property includes “personal property such as goods, chattels, and other articles of value which are capable of manual or physical possession, and machinery and equipment which is...used **essentially and principally** for the commercial or industrial purposes or processes for which it is intended....” [Emphasis added.]

The parties stipulated that, if the taxpayer were to prevail in this dispute, the “revised assessments” for tax years 2004 and 2005 would be reduced to \$420 and \$360, respectively. As the party seeking to change the current assessments, the taxpayer has the burden of proof. State Board Rule 0600-1-.11(1).

In the opinion of the administrative judge, the evidence of record favors the taxpayer’s position in this case. Admittedly, the vehicle in question does receive some business-related use. Nothing in the record suggests, however, that this truck – which Mr. and Ms. Arnold bought several years before such use even commenced – is used “essentially and principally” for commercial purposes. The tangible personal property reporting requirement in Tenn. Code Ann. section 67-5-903 cannot legitimately be extended to household items which are devoted mainly to personal use.

#### Order

It is, therefore, ORDERED that the subject property be valued as follows:

TAX YEAR	APPRAISAL	ASSESSMENT
2003	\$ 0	\$ 0
2004	\$1,400	\$420
2005	\$1,200	\$360

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

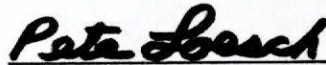
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is



requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8<sup>th</sup> day of December, 2006.



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PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: Mike and Sherrelle Arnold, A + Enterprises  
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office

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